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Nathalie Dorothee Pieterneel Leurs

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EXAMINER

ARAQUE JR, GERARDO

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/533,754	<b>Applicant(s)</b> LEURS ET AL.	
	<b>Examiner</b> Gerardo Araque Jr.	<b>Art Unit</b> 3689	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 October 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                    | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on **October 7, 2009** has been entered.

### ***Claim Rejections - 35 USC § 101***

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. **Claim 1 – 18** are rejected under 35 U.S.C. 101. Based on Supreme Court precedent and recent Federal Circuit decisions, the Office's guidance to an examiner is that a § 101 process must (1) be tied to a particular machine or apparatus or (2) transform underlying subject matter (such as an article or materials) to a different state or thing. *Diamond v. Diehr*, 450 U.S. 175, 184 (1981); *Parker v. Flook*, 437 U.S. 584, 588 n.9 (1978); *Gottschalk v. Benson*, 409 U.S. 63, 70 (1972); *Cochrane v. Deener*, 94 U.S. 780, 787-88 (1876).

To qualify as a § 101 statutory process, the claim should recite the particular machine or apparatus to which it is tied, for example by identifying the machine or apparatus that accomplishes the method steps, or positively reciting the subject matter

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that is being transformed, for example by identifying the material that is being changed to a different state.

There are two corollaries to the machine-or-transformation test. First, a mere field-of-use limitation is generally insufficient to render an otherwise ineligible method claim patent-eligible. This means the machine or transformation must impose meaningful limits on the method claim's scope to pass the test. Second, insignificant extra-solution activity will not transform an unpatentable principle into a patentable process. This means reciting a specific machine or a particular transformation of a specific article in an insignificant step, such as data gathering or outputting, is not sufficient to pass the test.

Here, applicant's method steps fail the first prong of the new test because the claimed invention fails to set forth a particular machine that is specifically configured/programmed to carry out the claimed invention. Although, the applicant has amended the claims to include a processing apparatus in the preamble of the claim it is asserted that the body of the claim has failed to disclose the specific steps, i.e. limitations, which the processing apparatus is performing. In other words, the body of the claim is void of the processing apparatus and has failed to positively recite and significant steps that the processing apparatus is responsible for.

Moreover, although the preamble discloses that the processing apparatus is used "for viewing by at least one user" and "providing a recommendation of the content items" the Examiner notes that these steps are considered to be insignificant extra solution activities. The Examiner asserts that "viewing" is considered to be displaying

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and that "providing" is considered to be nothing more than "making available" or, in the broadest reasonable interpretation, displaying and, consequently, are considered to be insignificant extra solution activities.

Further, applicant's method steps fail the second prong of the test because there is no transformation of the data. It is asserted that the data has not been transformed into another state or into another object.

The applicant is reminded that:

"Purported transformation or manipulations simply of public or private legal obligations or relationships, business risks, or other such abstractions cannot meet the test because they are not physical objects or substances, and they are not representative of physical objects or substances.

(In re Bernard L. Bilski and Rand A. Warsaw Page 28)"

Moreover, the "transformation must be central to the purpose of the claimed process.

(In re Bernard L. Bilski and Rand A. Warsaw Page 28)"

3. **Claims 20 – 21** are rejected under 35 U.S.C. 101 because the applicant is claiming a system with no structural components. As best understood by the Examiner from the applicant's specification, the limitations set forth in the **claim 20** are directed to software and software, per se, is not statutory. Although, the applicant attempts to disclose a processing apparatus it is asserted that the body of the claim and the preamble is actually directed towards the recommender and not to the processing apparatus. Upon further review of the specification, the Examiner asserts that the claimed processors and receiver are nothing more than software applications/programs. There is nothing in the specification indicating that, e.g., a user profiler processor is a

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microchip that has been specifically configured for the express purpose of handling user profile information. Therefore, if one were to argue that the claimed processors and receiver are the structural components of the processing apparatus it is asserted that the specification fails to show this since the specification only shows support for a software application for performing the claimed limitations.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. **Claims 20 – 21** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

6. In regards to **claim 20**, the Examiner is uncertain of what a "recommender" is. That is to say, is a "recommender" a system, process, apparatus, or etc.? For the purposes of examination the Examiner will assume the recommender to be software.

Furthermore, the Examiner is unable to determine whether the claimed processors and receiver are hardware or software. Upon reviewing the application and the drawings the processors and receiver are contained within the private video recorder, which the Examiner assumes to have its own processor (micro-chip). As a result, it appears to the Examiner that the applicant's claimed user profiler/recommender processors and receiver are nothing more than software. There is nothing in the specification or the applicant's remarks that specifically state that the recommender,

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user profile processor, recommender processor, and receiver are structural elements of the processing apparatus or software.

Moreover, it would be unclear on what is being infringed. Specifically, as currently claimed, how would one skilled in the art determine whether they are infringing on software or hardware?

Additionally, the Examiner is also uncertain as to whether the claim is directed towards the processing apparatus or the recommender. To be more specific, the claim attempts to claim a processing apparatus, but later discloses, "the recommender comprising."

7. **Claim 20** recites the limitation "**the recommender**" in **line 4 of the claim**. There is insufficient antecedent basis for this limitation in the claim.

#### ***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

9. **Claims 1 – 11 and 15 – 19** are rejected under 35 U.S.C. 102(e) as being anticipated by **Hane (US PGPub 2004/0083490 A1)**.

10. In regards to **claims 1 and 19**, **Hane** discloses a method of receiving and analyzing a plurality of content items in a processing apparatus for viewing by at least

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one user, the processing apparatus providing a recommendation of the content items preferred by the at least one user and a computer readable storage medium comprising a computer program including a set of instructions executable by a processor, the set of instructions being operable to be received by the processor for configuring the processor to receive and analyze a plurality of content items for viewing by a user, and for configuring the processor to provide a recommendation of the content items preferred by the user, the method and program comprising:

determining a user preference profile for a user (**Page 1 ¶ 13 wherein a profile creator is used to create a user preference profile**);

receiving a plurality of content items (**see at least Page 1 ¶ 14, 17; Page 4 ¶ 94 wherein the apparatus receives a plurality of content items and analyzes the received programs in order to determine which programs a user may view based on stored information within the user's profile**);

establishing a preference value for each received content item such that (**see at least Page 1 ¶ 19 – 22; Page 2 ¶ 28 – 31 wherein preferences are established by requiring the user to create one or more profiles and providing keywords that the user prefers to be included in program, thereby establishing a preference value for each content item that the apparatus receives in order to determine which program a user may be interested in viewing**).

if a first content item correlates with the user preference profile, setting a high preference value and recommending the first content item to the user, (**see at least Page 3 ¶ 68 wherein a program is searched for a recommended based on the user**



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**preference profile; see at least Page 6 ¶ 141; Page 7 ¶ 148 wherein programs that correlate with the user profile and have a high preference value are provided to the user and wherein the high preference value is determined based on how well the program correlates with the user preference profile); and**

if the first content does not have a high preference value recommending the first content item if it comprises at least one first characteristic having an associative correspondence to at least one second characteristic of a second content item having a high user preference (**see at least Page 6 ¶ 140; Page 7 ¶ 148 wherein programs that are not ranked high when initially correlated with the user preference profile is reanalyzed in order to determine whether the program should continue to be recommended to the user based on various stored parameters [characteristics], including previous programs that have been stored/viewed; see also Page 4 ¶ 93 – Page 6 ¶ 132 wherein Hane discusses how the recommendation system allows for the system to extract information from the shows that the user enjoyed and uses this information in order to determine other shows that the use may enjoy as well. In other words, Hane discloses that the user initially inputs their parameters and the recommendation system begins to learn on the user's likes and dislikes. As the user watches more shows, the system begins to take information from these shows and applies them to other shows and recommends those shows to the user. That is to say, the system relates characteristics from one program to characteristics of another program.**

Moreover, the system also provides a ranking of these programs ranging from highly probable that the user may watch to less probable. In other words, one of ordinary skill in the art would have recognized that the system is providing a ranking system according to a user's profile and determining the relevance that each program has according to the information that is stored in the user profile.

As a result, a highly ranked program would contain all, if not most, of the user's characteristics, while the lower rank characteristics would contain very few characteristics that are shown in the higher ranked programs. In other words, the system provides the lower ranked programs because the system may have determined that they share specific characteristics amongst the higher ranked programs.

Although, Hane does disclose that the user provides specific parameters, Hane also discloses that the system expands on these parameters based on programs that the user may have shown some interest in. As a result, since the system is expanding and extracting keywords from previous programs the system is, indeed, relating, "...characteristics of one program to characteristics of another program.").

11. In regards to **claim 2**, Hane discloses wherein the first content item is recommended to the user if only a single associative correspondence between the first characteristic and the second characteristic is determined (**see at least Page 6 ¶ 140; Page 7 ¶ 148 wherein if a associative correspondence is found the content will be recommended**).

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12. In regards to **claim 3**, **Hane** discloses wherein only the associative correspondence is determined for the first characteristic and second characteristic **(see at least Page 1 ¶ 7; Page 2 ¶ 30 wherein the characteristic of why the program is being recommended may be at least because a specific actor appears in the program or keyword).**

13. In regards to **claim 4**, **Hane** discloses further comprising an act of determining a user preference for the first content item recommended from the associative correspondence and updating the user preference profile in response to the user preference **(Page 4 ¶ 94; Page 5 ¶ 113 - 116; Page 6 ¶ 130 wherein the system controller learns from the programs that have been selected to be recorded by the user and uses at least a morpheme analysis, for example, in order to determine various user preferences and is updated).**

14. In regards to **claim 5**, **Hane** discloses wherein the first characteristic is a description of the first content item and the second characteristic is a description of the second content item **(see at least Page 4 ¶ 101 wherein the characteristic of the content can be comprised of at least the contents of the program).**

15. In regards to **claim 6**, **Hane** discloses wherein the first content item description is derived from a first textual description associated with the first content item and the second content item description is derived from a second textual description associated with the second content **(see at least Page 4 ¶ 99 wherein a text analysis process is used).**

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16. In regards to **claim 7**, **Hane** discloses wherein the associative correspondence is determined in response to an identification of a correspondence between at least one word of the first textual description and at least one word of the second textual description **(see at least Page 4 ¶ 99 wherein the results of the text analysis process is stored for use in determining a recommendation and uses the stored information, such as the information for the user “favorites”, in order to determine appropriate recommendations)**.

17. In regards to **claim 8**, **Hane** discloses wherein the correspondence is determined in response to the at least one word of the first textual description having a similar meaning as the at least one word of the second textual description **(see at least Page 4 ¶ 98 wherein a morpheme analysis is used in order to use the definition of a word in order to determine the meaning of the explanation regarding each program)**.

18. In regards to **claim 9**, **Hane** discloses wherein the correspondence is determined in response to the at least one word of the first textual description having an associative word correspondence to the at least one word of the second textual description, the associative word correspondence being determined from a database of word associations **(see at least Page 4 ¶ 98 – 99 wherein a word dictionary is used and stored within the system)**.

19. In regards to **claim 10**, **Hane** discloses wherein the associative correspondence is determined in response to word combinations of at least one of the first and second textual content descriptions **(Page 4 ¶ 97 – 99 wherein brief explanations of the**

**programs is used and stored into the system in order to determine the associative correspondence of the content items).**

20. In regards to **claim 11**, Hane discloses wherein at least one of the first and second characteristics are determined from content analysis of the first and second content items (**Page 4 ¶ 97 – 99; Page 4 ¶ 101 wherein the system uses at least the contents of the program(s) and brief descriptions in determining the recommendation; see also the explanation provided under claim 1 regarding the last limitation of the claim).**

21. In regards to **claim 15**, Hane discloses wherein at least one of the first and second characteristics are determined from a content broadcast channel (**Page 4 ¶ 97 wherein the characteristics can be derived from at least the channel of the program).**

22. In regards to **claim 16**, Hane discloses wherein the act of determining the associative correspondence comprises determining a plurality of associative correspondences between a plurality of characteristics of the first content item and a plurality of characteristics of the second content item (**see at least Page 4 ¶ 101 wherein the characteristics used can be comprised of the program title, cast of the program, type of the program, and contents of the program).**

23. In regards to **claim 17**, Hane discloses wherein the associative correspondence is further determined in response to a previous associative correspondence between content items (**see at least Page 4 ¶ 87; Page 5 ¶ 109, 115 wherein the system uses**

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**information from user favorite programs in order to determine the associative correspondence for recommending programs).**

24. In regards to **claim 18**, **Hane** discloses wherein at least one of the first and second characteristics are selected from at least one of (**see at least Page 4 ¶ 101 wherein the cast of the program is used**):

- a. an actor,
- b. a character played by an actor, and
- c. a location.

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***Claim Rejections - 35 USC § 103***

25. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

26. **Claims 12 – 14** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Hane (US PGPub 2004/0083490 A1)** in view of **Nicky Blackburn (Innovations; [Daily Edition])**.

27. In regards to **claims 12 – 14**, **Hane** discloses a system and method which analyzes the content of a program and uses the extracted information in order to

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determine whether the program should be recommended to the user based on stored information.

However, **Hane** fails to explicitly disclose:

wherein the content analysis comprises a content video image analysis, content items audio analysis, and content video object analysis.

**Blackburn** discloses that it is old and well known use video and audio analysis as a means of comparing the captured data with information stored within the system in order to provide key information to a user.

It would have been obvious to one having ordinary skill in the art to include in the recommendation system and method of **Hane** the ability to capture video and audio as a means of analyzing content as taught by **Blackburn** since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

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28. **Claims 20 – 21** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Hane (US PGPub 2004/0083490 A1)** in view of **Robert Cravotta (Exploring the anatomy of multiprocessor designs)**.

29. In regards to **claims 20**, **Hane** discloses a private video recorder (**Page 1 ¶ 24**) comprising a recommender for providing a recommendation of content to a user, as

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discussed above. **Hane** further discloses a receiver for receiving input (**see at least Page 1 ¶ 14, 17; Page 4 ¶ 94 wherein the apparatus receives a plurality of content items and analyzes the received programs in order to determine which programs a user may view based on stored information within the user's profile**).

However, **Hanes** fails to disclose the recommender comprising:

a user profile processor; and

a recommender processor.

**Cravotta**, however, discloses that it is old and well known to use multiple processors for computer system in order to provide more processing power than a single processor can accomplish. Multiple processors take advantage of the processing power by allowing the system to accomplish more tasks in less time by dividing the workload. One of ordinary skill in the art would have realized the advantages of using a multiprocessor system for the recommender, as taught by **Hane**, in order to take advantage of searching through the various characteristics in order to determine best content to provide to the user as fast and efficiently as possible.

Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to include a multiprocessor system, as taught by **Cravotta**, in the recommender system, as taught by **Hane**, in order to provide the content to the user as fast and efficiently as possible since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.



Regarding the following limitations:

a user profile processor **for** determining a user preference profile for a user;

a receiver **for** receiving a plurality of content items;

a recommender processor **for** establishing a preference value for each received content item such that

if a first content item correlates with the user preference profile, setting a high preference value and recommending the first content item to a user, and

if the first content item does not have a high preference value, recommending the first content item if it comprises at least one first characteristic having an associative correspondence to at least one second characteristic of a second content item having a high user preference;

the Examiner considers them to be nonfunctional descriptive subject matter. Specifically, the Examiner understands the claims to be directed towards a system and apparatus and, consequently, the data that is being processed does not add any further structural components to the claim. In other words, the type of data adds little, if anything, to the claim's structure, and, thus, does not serve as a limitation on the claims to distinguish over the prior art.

As a further note a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

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30. In regards to **claims 21, the combination of Hane and Cravotta** discloses wherein the processing apparatus is a portion of the video recorder (see at least Page 1 ¶ 24 wherein the processing apparatus and video recorder are part of the same apparatus/system).

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### ***Response to Arguments***

31. Applicant's arguments filed **10/7/2009** have been fully considered but they are not persuasive.

#### **Rejection under 35 USC 101**

32. Rejections under 35 USC 101 for claims have been **maintained** for the reasons stated above.

#### **Rejection under 35 USC 112, second paragraph**

33. Rejections under 35 USC 112, second paragraph, have been **maintained** for claims 20 and 21 for the reasons stated above. Additional remarks/rejections towards these claims have been included.

#### **Rejection under 35 USC 102**

34. Applicant argues that **Hane** fails to disclose:

“if the first content item does not have a high preference value, recommending the first content item if it comprises at least one first characteristic having an associative correspondence to at least one second characteristic of a second content item having a high user preference.”

However, the Examiner respectfully disagrees.

As discussed in the rejection above, **Hane** provides a system and method wherein a user inputs specific parameters so that the recommendation system is allowed to determine which programs to recommend to a user. However, **Hane** continues on to disclose that the recommendation system is a learning system (**see at least Pages 4 – 6 ¶ 83, 89, 93 – 132**). **Hane** discloses that the system extracts information from the program as a means of categorizing the program. The system continues on to use the extracted information (keywords) from a selected program and determines if the extracted information is part of the user's profile. If the system determines that the keywords are not part of the user's profile library it continues on to registering the keyword and making it a part of the user's profile (**see also Page 4 ¶ 93 – Page 6 ¶ 132 wherein Hane discusses how the recommendation system allows for the system to extract information from the shows that the user enjoyed and uses this information in order to determine other shows that the use may enjoy as well.**). In other words, Hane discloses that the user initially inputs their parameters and the recommendation system begins to learn on the user's likes and dislikes. As the user watches more shows, the system begins to take information from these shows and applies them to other shows and recommends those shows to the user.

Once this has been established, the system refers back to the newly updated user profile and provides further recommendations on programs that the user may watch. In other words, **Hane** discloses extracting keywords (characteristics) of one program, storing it in the user's profile, and using the newly updated user profile to

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determine whether specific characteristics show up in another program in order to recommend it to the user. That is to say, the system relates characteristics of one program to characteristics of another program.

Moreover, the system also provides a ranking of these programs ranging from highly probable that the user may watch to less probable. In other words, one of ordinary skill in the art would have recognized that the system is providing a ranking system according to a user's profile and determining the relevance that each program has according to the information that is stored in the user profile.

As a result, a highly ranked program would contain all, if not most, of the user's characteristics, while the lower rank characteristics would contain very few characteristics that are shown in the higher ranked programs. In other words, the system provides the lower ranked programs because the system may have determined that they share specific characteristics amongst the higher ranked programs.

Although, **Hane** does disclose that the user provides specific parameters, **Hane** also discloses that the system expands on these parameters based on programs that the user may have shown some interest in. As a result, since the system is expanding and extracting keywords from previous programs the system is, indeed, relating, "...characteristics of one program to characteristics of another program."

The Examiner would also like to note that the reason for providing a lengthy citation, i.e. citing ¶ 93 – 132, is because **Hane** provides a detailed breakdown of the recommendation and comparison process. The Examiner felt that citing only portions of

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the above mentioned citation would have been confusing and would have resulted in not fully understanding why **Hane** anticipates the claimed invention.

**Rejection under 35 USC 103**

35. All rejections made towards the dependent claims, as well as for **independent claims 19 – 21**, are maintained due to the lack of a reply by the applicant in regards to distinctly and specifically point out the supposed errors in the Examiner's action in the prior Office Action (37 CFR 1.111). The Examiner asserts that the applicant only argues that the claims should be allowable because the claims are unobvious and patentable over **Hane (US PGPub 2004/0083490 A1)** for the reasons stated above.

***Conclusion***

36. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gerardo Araque Jr. whose telephone number is (571)272-3747. The examiner can normally be reached on Monday - Friday 8:30AM - 4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Janice Mooneyham can be reached on (571) 272-6805. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Gerardo Araque Jr./  
Examiner, Art Unit 3689  
2/25/2010